



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 110

[USCG-2023-0485]

RIN 1625-AA01

### Establish Anchorage Ground; Rice Island Anchorage, Columbia River, Oregon and Washington

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is considering establishing an anchorage ground near Rice Island, Oregon in the Columbia River. We are considering this action after receiving requests suggesting that this anchorage ground is necessary to provide for the safe anchoring of commercial vessels in the navigable waters of the Lower Columbia River. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2023-0485 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LT Carlie Gilligan, Sector Columbia River Waterways Management Division, U.S. Coast Guard, 503-240-9319, email [SCRWWM@uscg.mil](mailto:SCRWWM@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background, Purpose, and Legal Basis**

Under Title 33 of the Code of Federal Regulations (CFR) 109.05, U.S. Coast Guard District Commanders are delegated the authority to establish anchorage grounds by the Commandant of the U.S. Coast Guard. The Coast Guard establishes anchorage grounds under Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 46 U.S.C. 70006) and places these regulations in Title 33 CFR part 110, subpart B. The Coast Guard is proposing the rulemaking to establish a Rice Island anchorage ground in the Columbia River.

In the last several years, the Columbia River Marine Transportation System has seen an increase in commercial traffic and vessel size, thus creating a concern for anchorage capacity within the river system. The Columbia River Steamship Operators Association and the Columbia River Pilots have formally requested the Coast Guard review and evaluate the establishment of this new anchorage ground to address the safety and navigation concerns with the expanding vessel traffic in the Lower Columbia River.

The purpose of this rulemaking is to establish a Federal anchorage ground in the Lower Columbia River that will be maintained and used by commercial vessels. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

### **III. Discussion of Proposed Rule**

The Coast Guard is proposing to establish a new anchorage ground in the vicinity of Rice Island, in the Lower Columbia River. The anticipated users of the proposed anchorage ground are commercial vessels and their attending tug, tow, or push boats. The

approximate depth of this proposed anchorage ground would be 43 feet to align with the federal channel depth and would accommodate a variety of vessel types and configurations. An illustration showing the location of the proposed anchorage ground is available in the docket.

When the Columbia River Federal channel was deepened in 2010, the size and draft of commercial vessels was increased, but the anchorage capacity within the river system was not. The vessels transiting in the Columbia River system now are longer and have a deeper draft than before the channel was deepened. Having larger vessels and increased transit frequency causes concern for safe navigation and emergency situations with limited anchorage capacity. The proposed Rice Island anchorage ground would double the anchorage capacity in Astoria, OR, for larger vessels, and allow the pilots to spread out distances between ships during storms or high wind events. The increased anchorage capacity in the Columbia River would also alleviate concern for anchorage availability for vessels experiencing emergencies or needing a harbor of safe refuge. The regulatory text we are proposing appears at the end of this document.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the location and size of the proposed anchorage ground, as well as the vessel traffic and anchoring data provided by the Coast Guard Navigation Center. The regulation would ensure approximately 1.745 square miles of anchorage grounds are designated to provide necessary commercial deep draft anchorages and enhance the navigational safety of commercial vessels transiting to, from, and within the Columbia River. The impact on routine navigation is expected to be minimal because the proposed anchorage ground is located outside the federal channel and is consistent with current anchorage habits. When not occupied, vessels would be able to maneuver in, around, and through the anchorages.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to use the anchorage ground may be small entities, for reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed

rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing an anchorage ground, Rice Island Anchorage, in an area traditionally used by commercial ships for anchoring in the Lower Columbia River system; and increasing the anchorage capacity of the river system. Normally such actions are categorically excluded from further review under paragraph L59(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to

which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2023-0485 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 110**

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 110 as follows:

**PART 110—ANCHORAGE REGULATIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 2071; 46 U.S.C. 70006, 70034; 33 CFR 1.05–1;

Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 110.228 (a)(12) to subpart B to read as follows:

**§ 110.228 Columbia River, Oregon and Washington.**

(a) \* \* \*

(12) *Rice Island Anchorage.* All waters in the vicinity of Rice Island, Oregon, bound by a line connecting the following points:

Latitude	Longitude
46°13'15.60"	123°46'28.20"
46°13'37.20"	123°45'22.20"
46°14'42.00"	123°43'12.00"
46°14'52.80"	123°42'12.00"
46°14'42.60"	123°42'00.00"
46°13'47.40"	123°43'48.60"
46°13'36.60"	123°44'15.60"
46°13'07.20"	123°45'58.20"
46°13'00.60"	123°46'16.80"

Dated: December 21, 2023.

Charles E. Fosse,  
Rear Admiral, U.S. Coast Guard,  
Commander, Thirteenth Coast Guard District.



